





1 placed repeated harassing telephone calls to Plaintiffs home telephone number from numbers  
2 including 877-254-0943. The undersigned has confirmed this number belongs to Defendant.

3 16. These calls occurred frequently despite Plaintiff Edwin's assertions that his  
4 mother could not have incurred the alleged debt.

5 17. Plaintiff, Edwin Andino has advised Defendant's collectors that his mother does  
6 not owe any debt and has specifically demanded that Defendant stop calling them.

7 18. Defendant has continued to call Plaintiffs against their express wishes.

8 19. Plaintiffs aver that when Defendant was told the calls were unwanted and to stop  
9 placing them, there was no lawful purpose for placing additional calls, nor was there any good  
10 faith reason to do so.

11 20. Further, Defendant failed to provide Plaintiffs mandated FDPCA disclosures in  
12 writing after reaching Plaintiffs.

13 21. Defendant's actions as described herein were taken with the intention of  
14 annoying, harassing, and coercing payment from Plaintiffs for this alleged debt.  
15

16  
17 **COUNT I**  
18 **DEFENDANT VIOLATED § 1692d and § 1692d(5) OF THE**  
19 **FAIR DEBT COLLECTION PRACTICES ACT**

20 22. Section 1692d of the FDCPA prohibits debt collectors from engaging in any  
21 conduct, the natural consequence of which is to harass, oppress or abuse any person, in  
22 connection with the collection of a debt.

23 23. Section 1692d(5) of the FDCPA prohibits debt collectors from causing a  
24 telephone to ring or engaging any person in telephone conversation repeatedly or continuously  
25 with the intent to annoy, abuse or harass any person at the called number.

1           24. Defendant violated § 1692d(5) of the FDCPA when it made repeated calls to  
2 Plaintiffs' telephone after being told to cease calls, with the intent to harass or annoy Plaintiff.

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4                                   **COUNT II**  
5           **DEFENDANT VIOLATED §§ 1692e, 1692e(2)(A) and 1692e(10) OF THE**  
6           **FAIR DEBT COLLECTION PRACTICES ACT**

7           25. Section 1692e prohibits debt collector from using false, deceptive or misleading  
8 information in connection with the collection of any debt.

9           26. Section 1692e(2) prohibits a debt collector from falsely asserting the fact of any  
10 compensation which may be lawfully received by the collector.

11           27. Section 1692e(10) prohibits debt collector from using any false representation or  
12 deceptive means to collect or attempt to collect any debt or to obtain information concerning a  
13 consumer.

14           28. Defendant violated §§ 1692e, 1692e(2)(A) and 1692e(10) when it sought to  
15 collect an amount from Plaintiffs that was not owed.

16  
17                                   **COUNT III**  
18           **DEFENDANT VIOLATED § 1692f OF THE**  
19           **FAIR DEBT COLLECTION PRACTICES ACT**

20           29. Section 1692f prohibits a debt collector from using any unfair or unconscionable  
21 means in connection with the collection of a debt.

22           30. Section 1692f(1) prohibits a debt collector from the collection of any amount of  
23 money, including interest, fees, charges, or expenses that are incidental to the principal  
24 obligation.

25           31. Defendant violated §§ 1692f and 1692f(1) when it sought to collect an amount

1 from Plaintiffs that was not owed, and when it engaged in other unfair and unconscionable  
2 practices.

3  
4  
5 **COUNT IV**  
6 **DEFENDANT VIOLATED § 1692g(a) OF THE**  
7 **FAIR DEBT COLLECTION PRACTICES ACT**

8 32. Section 1692g(a) of the FDCPA states that within five days after the initial  
9 communication with a consumer in connection with the collection of a debt, a debt collector shall  
10 send the consumer a written notice containing the amount of the debt, the name of the creditor to  
11 whom the debt is owed, and that if the debt is disputed, the debt collector will obtain verification  
12 of the debt.

13 33. Defendant violated § 1692g(a) of the FDCPA when it failed to send such a notice  
14 to Plaintiffs in regard to the alleged debt within five days of its initial contact with the Plaintiffs,  
15 in violation of the FDCPA.

16  
17 WHEREFORE, Plaintiffs EDWIN ANDINO and VICENTA ANDINO, respectfully pray  
18 for a judgment as follows:

- 19 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);  
20 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to  
21 15 U.S.C. § 1692k(a)(2)(A);  
22 c. All reasonable attorneys' fees, witness fees, court costs and other litigation  
23 costs incurred by Plaintiffs pursuant to 15 U.S.C. § 1693k(a)(3); and  
24 e. Any other relief deemed appropriate by this Honorable Court.  
25

**DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiffs VICENTA ANDINO AND EDWIN ANDINO,  
demand a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 01/29/2014

KIMMEL & SILVERMAN, P.C.

By: /s/ CRAIG THOR KIMMEL

CRAIG THOR KIMMEL

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